

REMARKS

The Examiner's Action mailed on July 1, 2008 has been received and its contents carefully considered. It is respectfully requested that the Amendment should be entered after Final rejection under 37 CFR §1.116(b)(2), as it places the application in better form for consideration on Appeal.

In this Amendment, Applicant has amended claims 1, 5-14, 20 and 22, and cancelled claims 4, 23 and 24 without prejudice. Claims 1 and 10 are the independent claims, and claims 1, 5-15 and 17-21 are pending in the application. For at least the following reasons, it is submitted that this application is in condition for allowance.

The specification was objected to for new matter and has been amended as appropriate. It is therefore respectfully requested that the objection be withdrawn.

However, Applicant wishes to point out that omitted subject matter contained in a priority document is deemed to have been incorporated by reference if the conditions of 37 CFR §1.57 are met.

Claims 1, 4, 5, 9-11, 14, 19, 21, 23 and 24 were rejected for obviousness double patenting over claims 7, 20-26 and 28-30 of co-pending application 11/515,761 (Our Docket No.: TOP 322C1). This rejection is respectfully traversed by the Terminal Disclaimer filed herewith.

Claims 1, 7-10, 12-14, 19 and 21 were rejected under 35 U.S.C. §103(a) as obvious solely over *Kawa et al.* (JP 2002-297309 A), and claims 4, 23 and 24 were rejected under 35 USC §103(a) as obvious over *Kawa et al.* in view of *Novak* (US 6,933,929 B1). These rejections are respectfully traversed.

Independent claims 1 and 10 have been amended to recite that the housing portion has "an internal surface having a receiving portion, a thickness of the housing portion being thinner at the receiving portion than adjacent thereto", as previously recited in claims 23 and 24, and claims 4, 23 and 24 have been cancelled.

The Examiner admitted in a telephone Interview in relation to co-pending application 11/515,761 (Our Docket No.: TOP 322C1) that *Kawa et al.* fails to teach or suggest "a concave portion". Further, the present Office Action in the present application admits on page 12 thereof that "*Kawa et al.* fail to explicitly teach wherein the identifying portion is a concave portion". In addition, the Examiner previously admitted in an Office Action dated June 3, 2008 in relation to application 11/515,761 that *Novak* "fails to explicitly teach wherein the receiving portion further has a concave portion, with the touch pad attached to the concave portion". Thus, the Examiner has admitted that neither *Kawa et al.* nor *Novak* discloses "a concave portion".

As neither *Kawa et al.* nor *Novak* discloses "a concave portion", it therefore follows that neither reference discloses that the housing portion has "an internal

surface having a receiving portion, a thickness of the housing portion being thinner at the receiving portion than adjacent thereto", as recited in claims 1 and 10.

Further, a copy of Applicant's translation of ¶¶[0006]-[0037] of *Kawa et al.* was submitted in each of the present application and in co-pending application serial number 11/515,761, and the Examiner has acknowledged that the Applicant's translation matches a further translation obtained by the Office. In relation to application serial number 11/515,761, the Examiner agreed that Applicant's translation is correct as to the meaning of ¶[0025] of *Kawa et al.* In Applicant's translation, this paragraph reads as follows:

[0025] Furthermore, if the track pad is a capacitance type, even the common surface layer 54 is thick, the detection is also performed. If the track pad is pressure type, the track pad 53 must be thin and deforms by pressing.

Thus, *Kawa et al.* states only that "the track pad 53 must be thin", and *Kawa et al.* therefore fails to teach or suggest that the housing portion has "an internal surface having a receiving portion, a thickness of the housing portion being thinner at the receiving portion than adjacent thereto".

In *Novak*, the label 416 is not a part of the housing 412, and in fact the label 416 does not receive the track pad 414, because the label 416 is affixed after the track pad 414 is in place. On the other hand, the first recessed surface 426 does receive the track pad 414, and is thinner than the housing 412 "adjacent thereto" but the first recessed surface 426 is not part of the internal surface of the

housing as recited in claims 1 and 10, rather it faces the internal surface of the housing.

Moreover, the Examiner further admitted in the telephone interview in relation to co-pending application 11/515,761 that if *Kawa et al.* were to be combined with *Novak*, it would not be possible to install a touch pad or track pad either from above or from below. This is because in *Novak* the track pad 414 has to be installed from above before the label 416 is applied, which would not be possible if label 416 were continuous with housing 412, whereas the first recessed surface 426 of *Novak* would block installation of the track pad 414 from below. Thus, if *Kawa et al.* were combined with *Novak*, the resulting arrangement would be inoperable, there being no way to assemble it.

Hence, *Kawa et al.* and *Novak*, whether taken separately or in combination, fail to teach or suggest that the housing portion has "an internal surface having a receiving portion, a thickness of the housing portion being thinner at the receiving portion than adjacent thereto" as recited in independent claims 1 and 10.

For at least these reasons, claims 1 and 10 patently define over *Kawa et al.* and *Novak*, and are allowable. Claims 7-9, 12-14, 19 and 21 depend therefrom, and are allowable at least because claims 1 and 10 are allowable, claims 4, 23 and 24 having been cancelled.

Claims 5, 6, 11 and 15 were rejected under 35 U.S.C. §103(a) as obvious over the combination of *Kawa et al.* and *Keely, Jr. et al.* (US 2002/0063694 A1). This rejection is respectfully traversed.

Claims 5 and 6 depend from claim 1, and claims 11 and 15 depend from claim 10. As claims 1 and 10 are allowable, and as *Keely, Jr. et al.* fails to overcome the deficiencies of *Kawa et al.* with respect to claims 1 and 10, therefore claims 5, 6, 11 and 15 are also allowable.

Claim 17, 18, 20 and 22 were rejected under 35 U.S.C. §103(a) as obvious over the combination of *Kawa et al.* and *Garner* (US 6,501,462 B1). This rejection is respectfully traversed.

Claims 17 and 20 depend from claim 1, and claims 18 and 22 depend from claim 10. As claims 1 and 10 are allowable, and as *Garner* fails to overcome the deficiencies of *Kawa et al.* with respect to claims 1 and 10, therefore claims 17, 18, 20 and 22 are also allowable.

It is submitted that this application is in condition for allowance. Such action and the passing of this case to issue are requested.

Should the Examiner feel that a conference would help to expedite the prosecution of this application, the Examiner is hereby invited to contact the undersigned counsel to arrange for such an interview.

Should any fee be required, however, the Commissioner is hereby authorized to charge the fee to our Deposit Account No. 18-0002, and advise us accordingly.

Respectfully submitted,



October 1, 2008
Date

Alun L. Palmer – Reg. No. 47,838
RABIN & BERDO, PC – Cust. No. 23995
Facsimile: 202-408-0924
Telephone: 202-371-8976

ALP/

AMENDMENT

10/661,587